

WINONA AND ST. PETER RAILROAD COMPANY v.
BLAKE.

1. The Winona and St. Peter Railroad Company, having been incorporated as a common carrier, with all the rights and subject to all the obligations which that term implies, was bound to carry, when called upon for that purpose, and charge only a reasonable compensation therefor.
2. Neither the act of the legislature of Minnesota of Feb. 28, 1866, nor the Constitution of the State, adds to or takes from the grant as contained in the original charter.

ERROR to the Supreme Court of the State of Minnesota.

Mr. B. C. Cook and *Mr. C. B. Lawrence* for the plaintiff in error.

Mr. W. P. Clough, *contra*.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

By its charter, the Winona and St. Peter Railroad Company was incorporated as a common carrier, with all the rights and subject to all the obligations that name implies. It was, therefore, bound to carry, when called upon for that purpose, and charge only a reasonable compensation for the carriage. These are incidents of the occupation in which it was authorized to engage. There is nothing in the charter limiting the power of the State to regulate the rates of charge. The provision in the act of Feb. 28, 1866, that the "company shall be bound to carry freight and passengers upon reasonable terms," and that in the Constitution of Minnesota (art. 10, sect. 4), that "all corporations being common carriers, . . . shall be bound to carry the mineral, agricultural, and other productions or manufactures on equal and reasonable terms," add nothing to and take nothing from the grant as contained in the original charter.

This case, therefore, falls directly within our rulings in *Munn v. Illinois*; *Chicago, Burlington, & Quincy Railroad Company v. Iowa*; *Peik v. Chicago & North-western Railway Company*; and *Chicago, Milwaukee, & St. Paul Railroad Company v. Ackley*, *supra*.

For the reasons stated in the opinions in those cases, the judgment of the Supreme Court of Minnesota is

Affirmed.

MR. JUSTICE FIELD and MR. JUSTICE STRONG dissented.

NOTE.—In *Southern Minnesota Railroad Company v. Coleman*, error to the Circuit Court of the United States for the District of Minnesota, which was argued by Mr. H. J. Horn and Mr. G. E. Cole for the plaintiff in error, and by Mr. E. C. Palmer for the defendant in error, MR. CHIEF JUSTICE WAITE, in delivering the opinion of the court, remarked: This case, in all its essential facts, is precisely like that of *Winona & St. Peter Railroad Company v. Blake*, *supra*. The judgment of the Circuit Court is, therefore, affirmed upon the authority of that case, and for the reasons stated in the opinions which have just been read.

MR. JUSTICE FIELD and MR. JUSTICE STRONG dissented.

STONE v. WISCONSIN.

As giving a construction to the State Constitution and statute, this court accepts the decision of the Supreme Court of Wisconsin, that the charter of the Milwaukee and Waukesha Railroad Company, granted by the Territory, is subject to repeal or alteration, inasmuch as it was not accepted, nor was the company organized, until after the admission of the State into the Union, under a constitution which continued that act in force, and provided that all laws for the creation of corporations might be altered or repealed by the legislature at any time after their passage.

ERROR to the Circuit Court of the County of Dane, State of Wisconsin.

Mr. John W. Cary for the plaintiff in error.

Mr. I. C. Sloan, *contra*.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

The only question presented in this case, not decided in *Chicago, Milwaukee, & St. Paul Railroad Co. v. Ackley*, *supra*, p. 179, is as to the effect upon the rights of these parties of the charter of the Milwaukee and Waukesha Railroad Company, passed by the territorial legislature of Wisconsin, March 11, 1847. This provides (sect. 15) that "on the completion of said railroad, or any portion of the track, not less than ten miles, it shall and may be lawful for the company to demand and receive such sum or sums of money for passage and freight